

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JIMI ROSE,</b>	)	<b>CIVIL RIGHTS ACTION</b>
<b>Plaintiff</b>	)	
<b>vs.</b>	)	<b>No. 02-CV-3842</b>
	)	
<b>CITY OF ALLENTOWN, and</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>ZONING HEARING BOARD OF</b>	)	
<b>THE CITY OF ALLENTOWN,</b>	)	
<b>Defendants</b>	)	

**MOTION TO QUASH SUBPOENAS**

NOW, come the Defendants, City of Allentown and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, and file the within Motion to Quash Subpoenas based upon the following facts:

1. The Plaintiff has issued subpoenas to Roy Afflerbach, the present Mayor of the City of Allentown, Craig Long, the Fire Chief of the City of Allentown, Mike Combs, a retired Allentown police officer, Allentown Chief of Police Joseph C. Blackburn, Allentown Police Officer Frank Peters, and Records Officer Allentown Police Department. Copies of said subpoenas are marked Exhibit A, B, C, D, E, and F, respectively.

2. The Subpoena issued to Fire Chief Craig Long requires him to produce: "All records of fire inspections at 2327 Hanover Ave., Allentown, Pa. since 1990." See Exhibit B.

3. The Subpoenas issued to Mike Combs, Joseph C. Blackburn, Frank Peters, and Records Officer require them to produce: "All police records concerning incidents and violent crimes since 1997, at BYOB clubs, after hours club, and bars and nightclubs with liquor licenses." See Exhibits C, D, E, and F.

4. Pursuant to this Court's Scheduling Order, the parties were to have filed Pretrial Memoranda listing the witnesses who they would be presenting at the time of trial and the Exhibits they intended to offer.

5. The Plaintiff filed a Pretrial Memorandum, a copy of which is attached hereto as Exhibit G.

6. Mr. Afflerbach, Mr. Long, Mr. Combs, Mr. Blackburn, and Mr. Peters are not listed as witnesses in that Pretrial Memorandum. See Exhibit G, Section II.

7. The records requested of Fire Chief Long are not listed as exhibits in said Pretrial Memorandum. See Exhibit G, Section III.

8. The Defendants' Pretrial Memorandum lists categories of persons, for example: "Allentown Police Officers," without identifying the particular people who were being listed as witnesses.

9. In light of that, the Defendants filed a Motion in Limine, arguing, in relevant part, that the Plaintiff should be precluded from presenting testimony from persons not identified in his Pretrial Memorandum.

10. Pursuant to an Order of this Court, dated January 31, 2005, this Court granted the Defendants' Motion in Limine. A copy of said Order is marked Exhibit H, attached hereto, and incorporated herein by reference.

11. In paragraph 6 of said Order, this Court precluded the Plaintiff from calling as witnesses persons not expressly identified in the Pretrial Memorandum.

12. That Order expressly prohibits the Plaintiff from calling Mr. Afflerbach, Mr. Long Mr. Combs, Mr. Blackburn, and Mr. Peters because they were not identified in the Pretrial Memorandum.

13. That Order additionally precludes the presentation of evidence with respect to claims prior to June 18, 2000. Exhibit H, para. 3.

14. The Subpoenaes seek fire inspection records since 1990 and police reports since 1997. See Exhibits B, C, D, E, and F.

15. Mr. Afflerbach, Mr. Long, Mr. Combs, Mr. Blackburn and Mr. Peters have no connection to the allegations the Plaintiff has made in this case.

16. Roy Afflerbach is the present Mayor of the City of Allentown. He was not Mayor at the time of the events upon which the Plaintiff is relying in his Amended Complaint.

17. Mr. Afflerbach has no connection to any of the Plaintiff's allegations and has never been identified by the Plaintiff as having relevant information in this case.

18. Mr. Long is the present Fire Chief and has no connection to the events discussed in the Amended Complaint.

19. Mike Combs is a retired Allentown Police Officer.

20. Mr. Combs had no dealings with the Plaintiff with respect to matters relied upon by the Plaintiff in his Amended Complaint.

21. Chief Blackburn and Officer Peters have no involvement with the claims being pursued by the Plaintiff.

22. The Plaintiff has requested that Mr. Combs bring with him police reports from the Allentown Police archives.

23. Mr. Combs, being retired, has no access to Allentown Police records.

24. The police reports sought concerning criminal activity near bars or night clubs since 1997, would require hundreds of hours to locate.

25. The subpoenas issued for Roy Afflerbach, Craig Long, Mike Combs, Joseph C. Blackburn, Frank Peters and "Records Officer" are appropriately quashed.

WHEREFORE, the Defendants, City of Allentown and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, respectfully request that the Subpoenas issued for Roy Afflerbach, Craig Long, Mike Combs, Joseph C. Blackburn, Frank Peters and Records Officer be quashed.

**RESPECTFULLY SUBMITTED,**

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James T. Huber, Esquire  
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<b>THE CITY OF ALLENTOWN,</b>	)	
<b>Defendants</b>	)	

**ORDER**

NOW, this                      day of                      , 2005, upon consideration of the Defendants' Motion to Quash Subpoenas, the subpoenas issued by the Plaintiff to Mayor Roy Afflerbach, Fire Chief Craig Long, Mike Combs, Allentown Chief of Police Joseph C. Blackburn, Allentown Police Officer Frank Peters and "Records Officer" are hereby quashed, and said witnesses are not required to appear in response to said subpoenas.

BY THE COURT:

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J.